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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,254	03/04/2002	Herbert Heiss	449122022000	9896
25227	7590	11/01/2005	EXAMINER	
MORRISON & FOERSTER LLP 1650 TYSONS BOULEVARD SUITE 300 MCLEAN, VA 22102			FOX, JAMAL A	
			ART UNIT	PAPER NUMBER
			2664	

DATE MAILED: 11/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/070,254

Applicant(s)

HEISS, HERBERT

Examiner

Jamal A. Fox

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 16-19 is/are rejected.
- 7) ☒ Claim(s) 6-15 and 20-27 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/12/2002.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Drawings*

1. The subject matter of this application admits of illustration by a drawing to facilitate understanding of the invention. Applicant is required to furnish a drawing under 37 CFR 1.81(c). No new matter may be introduced in the required drawing. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d).

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

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3. Claims 1-5 and 16-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Kirschenbaum (U.S. Patent No. 6,442,140).

Referring to claim 1, Kirschenbaum discloses a method for matching an RIF parameter (RIF = Rate Increase Factor) (RIF, col. 5 lines 30-63 and col. 17 lines 55-60) in ABR (ABR, col. 3 lines 5-20, col. 4 lines 20-40, col. 14 lines 1-10 and col. 15 lines 45-55) traffic in an ATM (ATM, col. 1 line 22 - col. 2 line 67, col. 3 lines 40-67, col. 4 lines 1-67, col. 7 lines 40-50, and col. 8 lines 15-60) data network with a multiplicity of connections, at least one data source (transmitter) (transmitter, col. 6 lines 65-67 and col. 10 lines 30-62), at least one data sink (receiver) (receiver, col. 10 lines 30-62) and, between the data source and data sink, at least one intermediate station being present, control cells and ATM (ATM, col. 1 line 22 - col. 2 line 67, col. 3 lines 40-67, col. 4 lines 1-67, col. 7 lines 40-50, and col. 8 lines 15-60) cells being transmitted during data transmission, and the control cells containing at least the fields CI (CI = Congestion Indication) (CI, col. 3 lines 28-33, col. 5 lines 1-5 and col. 12 lines 21-32) NI (NI = No Increase) (NI, col. 5 lines 1-5) and ECR (ECR = Explicit Cell Rate) (Explicit Cell Rate, col. 5 lines 3-10), characterized in that after receiving a signaling message with RIF\_sig\_ingress (RIF, col. 5 lines 30-63 and col. 17 lines 55-60), during a call setup the intermediate station determines the value RIF\_sig\_egress and the RIF (RIF, col. 5 lines 30-63 and col. 17 lines 55-60) matching is a function of the following parameters:

a memory (memory, col. 4 lines 55-60) location value in the intermediate station (RIF\_const) (RIF, col. 5 lines 30-63 and col. 17 lines 55-60)

the largest possible number of ATM (ATM, col. 1 line 22 - col. 2 line 67, col. 3 lines 40-67, col. 4 lines 1-67, col. 7 lines 40-50, and col. 8 lines 15-60) cells that can be sent (Nrm) per control cell by the transmitting device,

the peak cell rate (PCR, col. 5 lines 30-35 and col. 17 lines 50-60), which the transmitting device can never exceed (PCR = Peak Cell Rate),

the sum of the delays from the data source to the data sink and back, (FRTT = Fixed Round-Trip Time) (FRTT, col. 5 lines 50-55 and col. 11 lines 15-20), and of

a specific constant (constant, col. 3 lines 1-5 and col. 9 lines 30-35) of the intermediate station that can assume values between 0 and 15 (MAX\_RIF).

Referring to claim 2, Kirschenbaum discloses the method as claimed in claim 1, characterized in that the value of the peak cell rate (PCR) (PCR, col. 5 lines 30-35 and col. 17 lines 50-60) and/or of the sum of the delays (FRTT) (FRTT, col. 5 lines 50-55 and col. 11 lines 15-20) is estimated or determined.

Referring to claim 3, Kirschenbaum discloses the method as claimed in claim 2, characterized in that the value of the peak cell rate (PCR) (PCR, col. 5 lines 30-35 and col. 17 lines 50-60) and/or of the sum of the delays (FRTT) (FRTT, col. 5 lines 50-55 and col. 11 lines 15-20) is estimated in the intermediate station with the aid of the incoming signaling message.

Referring to claim 4, Kirschenbaum discloses the method of claim 2, characterized in that the value of the peak cell rate (PCR) (PCR, col. 5 lines 30-35 and col. 17 lines 50-60) and/or the sum of the delays (FRTT) (FRTT, col. 5 lines 50-55 and

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col. 11 lines 15-20) is estimated at the intermediate station with the aid of the outgoing signaling message.

Referring to claim 5, Kirschenbaum discloses the method of claim 2, characterized in that the value of the peak cell rate (PCR) (PCR, col. 5 lines 30-35 and col. 17 lines 50-60) and/or the sum of the delays (FRTT) (FRTT, col. 5 lines 50-55 and col. 11 lines 15-20) is determined on the basis of experimental values in accordance with a prescribed link.

Referring to claim 16, Kirschenbaum discloses a transmission system in ABR (ABR, col. 3 lines 5-20, col. 4 lines 20-40, col. 14 lines 1-10 and col. 15 lines 45-55) traffic in an ATM (ATM, col. 1 line 22 - col. 2 line 67, col. 3 lines 40-67, col. 4 lines 1-67, col. 7 lines 40-50, and col. 8 lines 15-60) data network, having at least one data source (transmitter) (transmitter, col. 6 lines 65-67 and col. 10 lines 30-62), at least one data sink (receiver) (receiver, col. 10 lines 30-62) and, between the data source and data sink, at least one intermediate station, control cells and ATM (ATM, col. 1 line 22 - col. 2 line 67, col. 3 lines 40-67, col. 4 lines 1-67, col. 7 lines 40-50, and col. 8 lines 15-60) cells being transmitted during data transmission, and the control cells containing at least the fields CI (CI = Congestion Indication) (CI, col. 3 lines 28-33, col. 5 lines 1-5 and col. 12 lines 21-32), NI (NI = No Increase) (NI, col. 5 lines 1-5) and ECR (ECR = Explicit Cell Rate) (Explicit Cell Rate, col. 5 lines 3-10), characterized in that it contains a means for matching an RIF parameter (RIF = Rate Increase Factor) (RIF, col. 5 lines 30-63 and col. 17 lines 55-60).

Referring to claim 17, Kirschenbaum discloses the transmission system as claimed in claim 16, characterized in that a program module that estimates or determines the value of the peak cell rate (PCR) (PCR, col. 5 lines 30-35 and col. 17 lines 50-60) and/or the sum of the delays (FRTT) (FRTT, col. 5 lines 50-55 and col. 11 lines 15-20) is provided in the intermediate station.

Referring to claim 18, Kirschenbaum discloses the transmission system as claimed in claim 16, characterized in that a program module that determines the value of the peak cell rate (PCR) (PCR, col. 5 lines 30-35 and col. 17 lines 50-60) and/or the sum of the delays (FRTT) (FRTT, col. 5 lines 50-55 and col. 11 lines 15-20) on the basis of experimental values in accordance with a prescribe link is provided in the intermediate station.

Referring to claim 19, Kirschenbaum discloses the transmission system as claimed in claim 16, characterized in that a memory (memory, col. 4 lines 55-60) is present in the intermediate station.

4. Claims 1-5 and 16-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Kirschenbaum (U.S. Patent No. 6,434,118).

Referring to claim 1, Kirschenbaum discloses a method for matching an RIF parameter ( $RIF = \text{Rate Increase Factor}$ ) (RIF, col. 9 lines 45-50) in ABR (ABR, col. 3 lines 5-20, col. 4 lines 30-45 and col. 9 lines 10-15) traffic in an ATM (ATM, col. 1 line 20 – col. 2 line 55, col. 3 line 40 – col. 4 line 25, col. 7 lines 50-55, col. 9 lines 10-15 and col. 17 lines 55-65) data network with a multiplicity of connections, at least one data source (transmitter) (Fig. 2 ref. sign 20 and Fig. 9 ref. sign 112 and respective portions

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of the spec.), at least one data sink (receiver) (Fig. 2 ref. sign 24 and Fig. 9 ref. sign 114 and respective portions of the spec.) and, between the data source and data sink, at least one intermediate station being present, control cells and ATM (ATM, col. 1 line 20 – col. 2 line 55, col. 3 line 40 – col. 4 line 25, col. 7 lines 50-55, col. 9 lines 10-15 and col. 17 lines 55-65) cells being transmitted during data transmission, and the control cells containing at least the fields CI (CI = Congestion Indication) (CI, col. 3 lines 25-30, col. 9 lines 20-21 and col. 11 lines 30-35), NI (NI = No Increase) (NI, col. 9 lines 35-40) and ECR (ECR = Explicit Cell Rate) (Explicit Cell Rate, col. 9 lines 25-30), characterized in that after receiving a signaling message with RIF\_sig\_ingress (RIF, col. 9 lines 45-50), during a call setup the intermediate station determines the value RIF\_sig\_egress and the RIF (RIF, col. 9 lines 45-50) matching is a function of the following parameters:

a memory (memory, col. 4 lines 65-67 and col. 15 lines 1-5) location value in the intermediate station (RIF\_const) (RIF, col. 9 lines 45-50)

the largest possible number of ATM cells that can be sent (Nrm) (Nrm, col. 5 lines 45-50 and col. 9 lines 35-40), per control cell by the transmitting device,

the peak cell rate (PCR, col. 5 lines 40-45, col. 6 lines 25-30, col. 8 lines 25-30, col. 9 lines 40-45 and col. 10 lines 45-50), which the transmitting device can never exceed (PCR = Peak Cell Rate),

the sum of the delays from the data source to the data sink and back, (FRTT = Fixed Round-Trip Time) (FRTT, col. 5 lines 60-65 and col. 9 lines 25-30), and of



a specific constant (constant, col. 3 lines 1-7 and col. 9 lines 15-20) of the intermediate station that can assume values between 0 and 15 (MAX\_RIF) (RIF, col. 9 lines 45-50).

Referring to claim 2, Kirschenbaum discloses the method as claimed in claim 1, characterized in that the value of the peak cell rate (PCR) (PCR, col. 5 lines 40-45, col. 6 lines 25-30, col. 8 lines 25-30, col. 9 lines 40-45 and col. 10 lines 45-50) and/or of the sum of the delays (FRTT) (FRTT, col. 5 lines 60-65 and col. 9 lines 25-30) is estimated or determined.

Referring to claim 3, Kirschenbaum discloses the method as claimed in claim 2, characterized in that the value of the peak cell rate (PCR) (PCR, col. 5 lines 40-45, col. 6 lines 25-30, col. 8 lines 25-30, col. 9 lines 40-45 and col. 10 lines 45-50) and/or of the sum of the delays (FRTT) (FRTT, col. 5 lines 60-65 and col. 9 lines 25-30) is estimated in the intermediate station with the aid of the incoming signaling message.

Referring to claim 4, Kirschenbaum discloses the method of claim 2, characterized in that the value of the peak cell rate (PCR) (PCR, col. 5 lines 40-45, col. 6 lines 25-30, col. 8 lines 25-30, col. 9 lines 40-45 and col. 10 lines 45-50) and/or the sum of the delays (FRTT) (FRTT, col. 5 lines 60-65 and col. 9 lines 25-30) is estimated at the intermediate station with the aid of the outgoing signaling message.

Referring to claim 5, Kirschenbaum discloses the method of claim 2, characterized in that the value of the peak cell rate (PCR) (PCR, col. 5 lines 40-45, col. 6 lines 25-30, col. 8 lines 25-30, col. 9 lines 40-45 and col. 10 lines 45-50) and/or the

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sum of the delays (FRTT) (FRTT, col. 5 lines 60-65 and col. 9 lines 25-30) is determined on the basis of experimental values in accordance with a prescribed link.

Referring to claim 16, Kirschenbaum discloses a transmission system in ABR (ABR, col. 3 lines 5-20, col. 4 lines 30-45 and col. 9 lines 10-15) traffic in an ATM (ATM, col. 1 line 20 – col. 2 line 55, col. 3 line 40 – col. 4 line 25, col. 7 lines 50-55, col. 9 lines 10-15 and col. 17 lines 55-65) data network, having at least one data source (transmitter) (Fig. 2 ref. sign 20 and Fig. 9 ref. sign 112 and respective portions of the spec.), at least one data sink (receiver) (Fig. 2 ref. sign 24 and Fig. 9 ref. sign 114 and respective portions of the spec.) and, between the data source and data sink, at least one intermediate station, control cells and ATM cells being transmitted during data transmission, and the control cells containing at least the fields CI (CI = Congestion Indication) (CI, col. 3 lines 25-30, col. 9 lines 20-21 and col. 11 lines 30-35), NI (NI = No Increase) (NI, col. 9 lines 35-40) and ECR (ECR = Explicit Cell Rate) (Explicit Cell Rate, col. 9 lines 25-30), characterized in that it contains a means for matching an RIF parameter (RIF = Rate Increase Factor) (RIF, col. 9 lines 45-50).

Referring to claim 17, Kirschenbaum discloses the transmission system as claimed in claim 16, characterized in that a program module that estimates or determines the value of the peak cell rate (PCR) (PCR, col. 5 lines 40-45, col. 6 lines 25-30, col. 8 lines 25-30, col. 9 lines 40-45 and col. 10 lines 45-50) and/or the sum of the delays (FRTT) (FRTT, col. 5 lines 60-65 and col. 9 lines 25-30) is provided in the intermediate station.

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Referring to claim 18, Kirschenbaum discloses the transmission system as claimed in claim 16, characterized in that a program module that determines the value of the peak cell rate (PCR) (PCR, col. 5 lines 40-45, col. 6 lines 25-30, col. 8 lines 25-30, col. 9 lines 40-45 and col. 10 lines 45-50) and/or the sum of the delays (FRTT) (FRTT, col. 5 lines 60-65 and col. 9 lines 25-30) on the basis of experimental values in accordance with a prescribe link is provided in the intermediate station.

Referring to claim 19, Kirschenbaum discloses the transmission system as claimed in claim 16, characterized in that a memory (memory, col. 4 lines 65-67 and col. 15 lines 1-5) is present in the intermediate station.

### ***Allowable Subject Matter***

5. Claims 6-15 and 20-27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

6. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

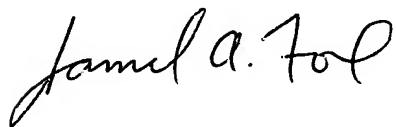
(571) 273-8300, (for formal communications intended for entry)

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamal A. Fox whose telephone number is (571) 272-3143. The examiner can normally be reached on Monday-Friday 6:30 AM - 5:00 PM.

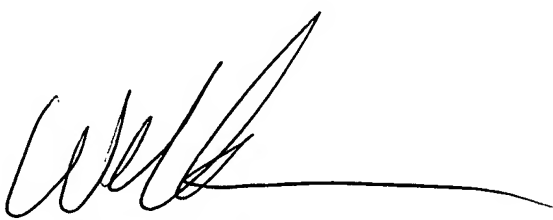
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on (571) 272-3134. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to 2600 Customer Service whose telephone number is (571) 272-2600.

A handwritten signature in cursive script that reads "Jamal A. Fox".

Jamal A. Fox

A handwritten signature in cursive script, likely reading "Wellington Chin", followed by a long horizontal line.

WELLINGTON CHIN  
SUPERVISORY PATENT EXAMINER